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Paper No. 6

In re Application of  
Carlucci, et al.  
Application No. 09/862,815  
Filed: May 22, 2001  
Attorney Docket No. CM2353

DECISION ON PETITION

This is a decision on the petition filed March 18, 2002, to  
revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to  
reply to the Notice to File Missing Parts of Application mailed  
July 19, 2001. The Notice set a period for reply of two (2)  
months from the mail date of the Notice. No extensions of time  
under the provisions of 37 CFR 1.136(a) were obtained. No reply  
having been received, the above-identified application became  
abandoned on September 20, 2001. The instant petition precedes  
the mailing of a Notice of Abandonment.

Petitioner has satisfied the requirements of 37 CFR 1.137(b).  
Accompanying the instant petition were new declarations signed in  
combination by all of the joint inventors; and the surcharge for  
late filing of the declaration under 37 CFR 1.16(e), the replies  
requested in the above-identified notice. Petitioner also  
submitted the petition fee and made the required statement of  
unintentional delay.

Petitioner also submitted a request for extension for response  
within the fifth month (and fee). An extension of time under 37  
CFR 1.136 must be filed prior to the expiration of the maximum  
extendable period for reply. See In re Application of S., 8  
USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the  
\$1,960.00 extension of time submitted with the petition on March  
18, 2002 was subsequent to the maximum extendable period for  
reply, this fee cannot be accepted and will be credited to  
petitioner's deposit account, as authorized.

The application file is being forwarded to the Office of Initial  
Patent Examination for completion of pre-examination processing.

Telephone inquiries specific to this decision should be directed  
to the undersigned at (703) 305-0309.

Nancy Johnson  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy